

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

ENAGIC USA INC. et al.,

Defendants.

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No. 3:15-cv-0847

Judge Nixon

Magistrate Judge Holmes

ORDER

Before the Court is defendant Enagic USA, Inc.'s motion to dismiss (ECF No. 16), in response to which plaintiff Craig Cunningham has filed a motion to amend his complaint and proposed amended complaint (ECF Nos. 36 and 36-1), along with a supporting affidavit (ECF No. 37).

The plaintiff's motion to amend his complaint (ECF No. 36) is **GRANTED** and the Clerk is **DIRECTED** to file the proposed amended complaint separately as the plaintiff's Third Amended Complaint.

Because the amended complaint addresses or attempts to address most of the deficiencies identified in Enagic's motion to dismiss, that motion (ECF No. 16) is **DENIED** without prejudice to the defendant's ability to seek dismissal of the third amended complaint.

The Clerk is **DIRECTED** to **TERMINATE AS MOOT** plaintiff's motion (ECF No. 22) for an extension of time to address the motion to dismiss.

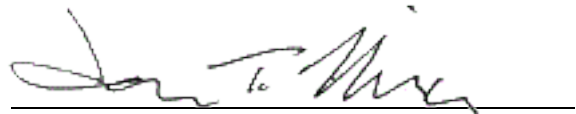
This action is **REFERRED** to the magistrate judge for customized case management in accordance with Local Rule 16.01(e)(1), to dispose or recommend disposition of any pretrial motions under 28 U.S.C. §§ 636(b)(1)(A) and (B), and to conduct further proceedings, if

necessary, under Rule 72(b) of the Federal Rules of Civil Procedure and the Local Rules of Court.

Pursuant to Local Rule 16.01(e)(1) and Fed. R. Civ. P. 26(d), discovery is not stayed absent order of the district judge.

The case shall be set for trial upon completion of the initial case management conference by order of the district judge in accordance with the procedures of Local Rule 16.01(d)(5).

It is so **ORDERED**.



JOHN T. NIXON, SENIOR JUDGE
UNITED STATES DISTRICT COURT